



Governor's Juvenile Law Commission

October 13, 2004

Commission Members Present

Katie Humphreys
Susan Carpenter
Steve DeMougin
Bruce Donaldson
Jamie Groves for Roger Duvall
Glenn Howard
Larry Landis
David Long
Bob Marra
Viola Taliaferro
Robin Tew
Diane WeissBradley

Agency

JLC Chair
State Public Defender
FSSA
IJJTF Board Member
Scott County Prosecutor
Senate
Public Defender Council
Senate
DOE
Monroe Circuit Court
ICJI
Lake Co. Juvenile Court Probation

Commission Members Absent

Melvin Carraway
Pam Cline
Glenn Howard
Robert Kuzman
James Payne
Chessie Smith-Hacker
Justice Robert Rucker
Connie Windhorst

Agency

Indiana State Police
DOC
Senate
House of Representatives
Marion Superior Court, Juvenile Div.
Youth Representative
Indiana Supreme Court
Parent Representative

Staff Present

Nikki Kincaid
Micah Cox

Agency

ICJI
ICJI

Contract Staff Present

Laurie Elliott
Jim Hmurovich
Michelle Tennell

Agency

Youth Law T.E.A.M.
Staff
ICJI

Guests

Natalie Auberry
Janet Corson
Joe Fistrovich
Cathy Graham
David P. Reynolds

Agency

J-TAC
DMHA
IDOC
IARCCA
State Budget Agency

- I. Called to Order:** 10:40 a.m.
By: Katie Humphreys, Chair of the Governor's Juvenile Law Commission.
- II. Minutes of September 8, 2004 meeting were distributed via e-mail and mail prior to meeting and distributed via handout for review.**

Motion to approve: Judge Taliaferro
Second: Diane WeissBradley
Motion carried. Minutes approved by consensus without changes or additions.

III. Review and Approval of JLC Subcommittee Final Draft Recommendations

The Chair gave an overview of the work of the Governor's Juvenile Law Commission's subcommittees to date. The Chair suggests that the Commission members go through all nineteen (19) recommendations made by the subcommittees and, in clear and concise terms, vote on each recommendation with input/changes suggested by the Commission. The next steps for consideration would then include development of a timeline for presentation of the recommendations, final comments, and follow-up. The Commission will then follow how the legislature proceeds and decide upon how to bring about closure to the Commission's duties. The Chair does believe the Commission should have some date certain at which time it passes its work along. Suggestions include within a one-year time frame or possibly at the end of the next session of the General Assembly.

The Chair then reiterated the four Cornerstone Issues which the Commission agreed to pursue approximately one year ago.

1. Minimize labeling while maximizing service coordination so that there are not "wrong doors" to systems entry. Additionally, service provision should be consistent.

* Systems refers to Child Welfare/CHINS, Juvenile Justice/Delinquency, Mental Health/Addictions, Education/Special Education.

2. Efficient screening/assessment and cross-system coordination will reduce the administrative costs of services to families.
3. Begin with the "best interests of children" and let the fiscal policy follow.
4. Increase parent accountability and systems support for parents to produce positive outcomes for children.

The Chair then thanked all subcommittee members and recognized those Subcommittee Chairs in attendance for their work.

Governor's Juvenile Law Commission

SUMMARY OF RECOMMENDATIONS

Information-Sharing Subcommittee

Recommendation #1

It is recommended that in the future, any development of, substantial modifications, or improvements to information systems that relate to the delivery of services to children and families be presented to a state-level coordinating body.

Recommended Implementation:

Indiana Code Sections 4-23-16-1 through – 12 enable and govern the State Information Technology Oversight Commission ("ITOC"). It appears that ITOC would be the appropriate entity to house a committee or subcommittee regarding information-sharing between the State's juvenile law agencies. ITOC has a Technology Leadership Council which meets once every two months; its members are comprised of representatives from 17 committees, one of which addresses "Human Services" and one of which is dubbed "Public Safety and Justice." Perhaps members from these two committees could join with other appropriate representatives (see below) to form a subcommittee to continue their current work guided by this Commission's Recommendations.

The subcommittee would recommend the following four high-level goals for such an ITOC Information Management Sub-Committee to pursue:

- A) To prevent the implementation of system changes or upgrades which might impede information-sharing between and among the various service providers without each participant's reporting on the proposed change or upgrade and receiving approval from the oversight body;
- B) To develop standard processes for handling data and workflow – e.g., standard common definitions, assessment tools; avoiding the duplication of data at each step as a juvenile offender or child in need of services and/or the child's family move through the system and come into contact with the various service providers;
- C) To ensure and safeguard confidentiality of sensitive information while at the same time promoting the sharing of non-confidential information among service providers, parents, schools, etc.
- D) To provide a policy-making body to make decisions from which practices can flow – so that the policies guide practices rather than vice-versa.

The Chair then opened the floor for questions and comments.

Nikki Kincaid will report comments sent by Judge Payne, who is unable to attend the Commission meeting, regarding the subcommittee recommendations.

Judge Payne asks how this recommendation relates to J-TAC.

Natalie Auberry of the Information Sharing subcommittee as well as a representative of the J-TAC responds that J-TAC is not a part of the Executive Branch. They have been invited,

however, and are welcome to ITOC events as they occur. This comports communication between the Executive and Judicial branches.

Larry Landis inquires what State level body is this recommendation referring to. Who has authority?

The Chair responds that the body is ITOC which was formerly known as DPOC, the authoritative body through which all information technology must go.

Larry Landis further inquires about how this will impact county level systems. Will this recommendation pertain only to statewide information systems?

The Chair responds affirmatively. This will apply to the State level systems only.

Nikki Kincaid states that Recommendation #4 speaks to the county level processes. This recommendation will put a filtering system in place to make sure all information systems are integrated.

Chair asks Commission members for further input or if a vote is in order.

Representative Foley suggests that the Commission vote on all recommendations from each subcommittee at one time.

Consensus was reached by Commission members to hear each recommendation and then group each subcommittee's recommendations into one vote.

Recommendation #2

Ensure that each of the child serving systems (education, child protection, juvenile justice, and mental health) structure and manage information-sharing to: 1) Recognize and support the integral role played by families in identifying, developing and guiding the delivery of services; and 2) Recognize parental rights and responsibilities to protect the best interests of their child(ren).

Recommended Implementation:

This recommendation may require policy changes to implement a standardized approach to include parents and caregivers during cross-system planning meetings for their child. Parents should have access to information that identifies their rights and responsibilities (examples are the In the Best Interests of Children: A Parent's Guide to the CHINS Process and a similarly written guide for parents whose children are in the delinquency system.)

1. Review existing policies in the various child-serving systems for areas to be strengthened so as to support parental involvement as well as areas where parental responsibilities need to be more clearly identified.
2. Identify and develop appropriate training materials for use in case conferencing and in the courtroom;
3. Provide training to those working with parents, including parent representatives in the training.

4. Assure that informational materials are available to parents on entry into any of the child-serving systems.
5. Include parent education groups as a means to get information to parents in the same situation.

Chair opens floor for questions/comments.

Steve DeMougin states that he is in favor of the proposal.

Rep. Foley states that a judge would know best, however, it appears as though some parents don't absorb written materials very well and that different types of educational opportunities may be needed.

Judge Taliaferro interjects that if we can get parents into delinquency court sooner and make them understand their roles and how they fit into the process, this would go a long way toward improvement. We must make sure we are saying what we mean. We must make a clear statement that we need to include the possibility that rehabilitation of parents may be needed as well—similar to the situation in CHINS court. We must be able to assess the parenting skills of the family. We must identify what changes must be made if we hope to be able to rehabilitate the child. This is a wonderful recommendation. The judge states that she works with parents everyday and she believes many parents need help even when they don't think they need it themselves. We need to be sure we do not offer only band aids for an open wound.

Judge Taliaferro further suggests that legislation needs to be clearer regarding parents' responsibilities and duties. A case conference is fine if everyone uses it. Family preservation specialists must be involved, too.

Senator Long asks what kind of enforcement mechanism is needed to ensure these actions take place. What is prohibiting judges currently? What may be done, legislatively, without encroaching on parental rights to encourage their involvement in the delinquency process at the earliest possible time?

Chair suggests that the Commission look to Recommendation #18 for suggestions to statutory changes. Recommendation #2 suggests policy changes. Chair suggests that the final report from the Commission may combine all related recommendations.

Diane WeissBradley agrees that these recommendations may, indeed overlap with recommendations from other subcommittees and that all nineteen (19) recommendations from the four subcommittees may actually be combined in a final report to the Governor's office.

Recommendation #3

It is recommended that an affirmative statutory statement be enacted that promotes effective and appropriate information sharing among and between eligible system

professionals and the families with whom they work so as to serve the best interests of children.

Recommended Implementation:

This recommendation requires the establishment of a common affirmative statement in each of the sections of the statutes that govern the management of services for each child and family serving system.

A statement can be based upon a variation of the Missouri statute that states:

“All courts holding juvenile jurisdiction and the agencies addressing child protective services, juvenile justice, mental health, health, elementary and secondary education and developmental disabilities shall share information regarding individual children who have come in contact with, or have been provided services by, the courts and such agencies. The state courts administrator and the agencies of child protective services, juvenile justice, mental health, health, elementary and secondary education and developmental disabilities shall coordinate their information sharing systems to allow for sharing of information regarding and tracking of individual children by the courts holding juvenile jurisdiction and the agencies addressing child protective services, juvenile justice, mental health, health, elementary and secondary education, developmental disabilities and school districts. All information received by the court, any agency or any school district pursuant to this section shall remain subject to the same confidentiality requirements as are imposed on the agency that originally collected the information. All actions described in this section shall be based upon meeting the safety, health and best interests of the child”

The following implementation steps must occur in order to achieve the intent of this recommendation:

- 1) Introduction of legislation in the 2005 General Assembly;
- 2) Identification and modification of all applicable state administrative rules and state plans that require changes to meet the intent of the statutes;
- 3) Development of appropriate agency policies and procedures that implement, promote and attain the intent of the statutes and administrative codes;
- 4) Development of a common curriculum that provides cross- agency and cross-system training to all professionals involved in service delivery to children and their families;
- 5) Establishment of a common forum to discuss implementation issues and situations that arise from the enactment of these statutes; and,
- 6) Development and implementation of a monitoring, evaluation and quality assurance process to ensure that the privacy of children and families are safeguarded.

Chair opened floor for questions and comments.

No questions or comments by Commission members.

Recommendation #4

It is recommended a standing Information Sharing Practices & Outcomes Panel to address the issue of sharing best practices and outcomes data information in order to inform and improve the delivery of services to children and families at both the State and local level be established.

Recommended Implementation:

There are currently no statutes that would prevent this recommendation. The addition of a new statute that would specifically address this recommendation might add a certain sense of legitimacy to any determination of a best practice. A statute covering this recommendation could be modeled after Indiana's current drug court certification process.

Regardless of the eventual form that this recommendation might take, the following three primary issues would initially need to be addressed:

- Who will serve as members of panel?
- What will be used as the criteria for selecting research-based best practices? (The panel members would likely be asked to come up with the review standards)
- How will the best practice information be made available to practitioners?

The questions of who will serve and what the criteria will be are relatively straightforward. Membership on the panel should be determined by the full Juvenile Law Commission, with those panel members reaching a consensus about the criteria to be used.

The third issue dealing with the method of dissemination of this information remains open for further debate. The most discussed possibility would have the State act as a "clearinghouse" for best practice information. In this role, the panel would be approachable by any program or provider seeking to have their program classified as a best practice. This would consist of the panel determining whether a given program satisfied their criteria for best practice designation. The panel could even be responsible for maintaining some type of central repository of these programs.

Chair suggests that this recommendation be modified to include the formation of an advisory panel after the Governor's Juvenile Law Commission terminates its tenure as well as a place for the Best Practice panel to "land."

Rep. Foley asked for clarification from the Chair. Is it her intent that a standing panel be formed?

The Chair responds affirmatively.

Consensus for approval of Recommendations One through Four was reached by Commission members. A final vote will be held after the remaining recommendations are heard.

Identification, Assessment, & Service Referral Subcommittee

Recommendation #5

It is recommended that the Legislative Codes of the juvenile justice, child welfare, education and mental health systems be amended to contain a common Purpose Clause outlining the policies of the State of Indiana with regard to the provision of services to children and families.

Recommended Implementation:

- A review of each system/agency Administrative Codes and state plans to determine whether changes are necessary.
- Similar limiting language from SPEC appropriate to this purpose clause recommendation for juvenile justice, child welfare, education, mental health will be added.
- The development of policies and procedures for inter-agency communication and collaboration.
- The development and implementation of a training plan for each affected system/agency.

The recommended date for implementation is July 1, 2006.

Chair opens floor for questions and comments.

Senator Long states that this idea has been “knocked around” for quite some time. He would like an explanation added regarding what this may not be used for. He recommends incorporating some limiting language provided by Legislative Services Agency. This would be important for this recommendation to survive legislative scrutiny and would likely be more readily accepted.

The Chair agrees and recommends that the language should be consistent with that proposed by other commissions and committees.

Recommendation #6

It is recommended that there be a standard process that is followed to identify, screen, assess, and link necessary services with children and families. While it is universally recognized that children entering the juvenile justice and child welfare systems be screened and assessed, it is additionally recommended that all children receive well-being screenings as part of the routine examination/screenings that occur in the health care and/or education systems. Information obtained in this process must be shared with appropriate parties involved with the child and family. The selected screening and

assessment instruments must be recognized as a legitimate and acceptable tool that will be accepted by the various systems that serve children.

Recommended Implementation:

- Establishment or coordination of this effort with an interagency forum or ad hoc committee that will be charged with the implementation of this recommendation;
- Establishment of the criteria or standards that are to be used in the selection of a screening instrument and an assessment instrument;
- Selection of a screening instrument(s) and an assessment instrument(s) that address the desired domains and meet the designated criteria;
- Determination of the manner, the format and the timeframe in which the results of the assessment information is conveyed to the referring agency for service referral, linkage and follow-up;
- Determination of the common format for the service coordination plan across all systems;
- Establishment of common expectations as to the manner in which parents will guide the development and implementation of a service coordination plan;
- Development of appropriate agency administrative rules, state plan amendments and agency policies that require local implementation and compliance with each appropriate component of this recommendation;
- Development of inter-agency cross-training;
- Establishment of a monitoring process for planning and budget purposes;
- Development of a process for inter-agency monitoring and process improvement, including action plans and timeframes to overcome system deficiencies or lack of local services; and,
- Development of standards and expectations for the completion of the assessment report that are identified clearly and formalized in written policy and/or contracts as well as monitored to ensure compliance by the service providers completing the assessment.

The recommended date for implementation is July 1, 2006.

Chair opens floor for questions and comments.

Bob Marra states that he cannot agree with this recommendation. He states that he has asked the subcommittee to identify a screening instrument which, with minimal training to administering personnel, may be administered in an educational setting by non-mental health professionals and achieve the same objective results. Mr. Marra disagrees with this recommendation on two basic principals. First, the level of parental permission/involvement in the screening is inadequate and second, the subjective nature of the interpretation of any screening instrument.

Sen. Long interjects that he is also involved in the Forensic Diversion program and there are cutting edge tools which are being identified by this group. Further, that there may be some information crossover from this committee regarding proper testing procedures.

Finally, the DMH is currently involved in developing a practice and procedure that will ultimately end up in all of the counties community corrections programs. While the instrument may not currently be identified, Sen. Long believes there are objective instruments available.

Bob Marra states that he has not been made aware of any such instrument and strongly believes that parental permission must be paramount.

Sen. Long suggests that the police in Indianapolis are being trained in CIT and that the Commission might take this recommendation and work with other organizations such as the police that are involved with this issue and work in sync with them.

Chair recognized audience member, Bill Glick of the Indiana Juvenile Justice Task Force. Mr. Glick states that there are nationally recognized objective screening tools currently in use such as the MASI. He does agree that assessment tools are different and are at the deeper end of the funnel. He does feel comfortable with screening all children that come into contact with the Child Welfare and Juvenile Justice systems; however, does not feel as though all children in the Educational system should receive screening.

Rep. Foley suggests that we say there is a need to develop a standard process for screening and we could include “other children” instead of “all children.” That would allow for children in the educational arena to be screened if they have already been identified as at risk in some other way.

The Chair states that the subcommittee’s original recommendation was closer to this ideal and that it was the Commission that changed “other” children to “all” children.

Consensus for approval of Recommendation #5 was reached by Commission members. Recommendation #6 will be tabled until further discussion may take place. A final vote will be held after the remaining recommendations are heard.

Planning, Policy & Systems Development Subcommittee

Recommendation #7

It is recommended that Indiana law be changed from a two-tiered (juvenile court - adult court jurisdiction) system to reflect a three-tier system consisting of: (1) juvenile court jurisdiction, (2) youthful offender/extended jurisdiction under juvenile court jurisdiction, and (3) adult court jurisdiction. It is further recommended that the Governor’s Juvenile Law Commission review, eliminate, and/or reduce the number of direct file offenses (IC 31-30-1-4) as part of the development of a three-tier system.

Recommended Implementation:

The recommended timeline for implementation would be development and introduction of legislation for the upcoming legislative session with the system to be implemented by July 2007.

Judge Taliaferro states that she could not agree more with asking the legislature to look at all direct file offenses. She feels as though some of these offenses were added during times of great concern surrounding specific events, such as the “post Columbine reaction.” Judge Taliaferro does, however, have concerns about the three-tier system recommendation. She does support the concept of adding a youthful offender tier, only if it remains under juvenile court jurisdiction. She is concerned that if the juvenile and adult court remedies are combined, the child may not be afforded all of the legal rights afforded in the adult court system. She further suggests that there should be consensus regarding what offenses should be kept in juvenile court and youthful offender/extended jurisdiction until age 16, 18 and even 21.

Susan Carpenter states that this recommendation should also include looking into the waiver of juveniles to the adult court system as this is intimately connected with the tier system and direct file issues.

Nikki Kincaid states that there are a number of groups that have looked into this issue. A group from the State Bar Association did come to some conclusions regarding these questions. Ms. Kincaid suggests that the Commission may look to these groups and build upon their work.

Larry Landis states that “the devil is in the details” regarding a three tier system. He further states that there are models of a three tier system in other states that avoid the “dark side.”

Bruce Donaldson shares the concerns expressed by Larry Landis and Judge Taliaferro and asks if this would require a shift of resources from the adult to the juvenile system.

Diane WeissBradley states that there is a constant struggle regarding how to get services to children who reach age 18 while still holding them accountable.

Larry Landis agrees and may be willing to explore a three-tier system if it assumes more of a rehabilitative component.

Rep. Foley would support extending juvenile court jurisdiction only for more access to services.

Jamie Groves, of the PPSD subcommittee agrees that the Commission could spend a considerable amount of time discussing the merits of each type of system. He recommends the exploration of the benefits of a three-tier and/or a two-tier extended system. He offered the services of the subcommittee for the undertaking of a study.

The Chair asks if we can assume that Commission members agree at the higher level that a three-tier system with caveats may be agreed upon.

Recommendation #7 will be tabled until further discussion may take place. A final vote will be held after the remaining recommendations are heard.

Recommendation #8

It is recommended that Indiana code be changed to reflect original juvenile court jurisdiction over all misdemeanor traffic offenses, infractions and ordinance violations involving juveniles under the age of 18 for all Indiana Juvenile Courts.

Recommended Implementation:

Currently Marion and Lake Counties are the only two counties in the state to have original juvenile court jurisdiction over misdemeanor traffic offenses under IC 31-30-1-8 and 33-33-45-6 respectively. IC 31-30-1-2 provides for the exceptions to original juvenile court jurisdiction, which has included misdemeanor traffic offenses under Subsection (1).

It is proposed that this recommendation be implemented through the aforementioned Indiana Code changes to go into effect July 1, 2005.

Rep. Foley is not sure he can subscribe to this recommendation. He feels this may clog the court system. Further, no fines are collected in the juvenile system.

Diane WeissBradley asks what offenses would be affected and how? Driving under the influence, driving without a license, criminal recklessness? Infractions and ordinance violations should be eliminated from the recommendation.

Recommendation #8 will be tabled until further discussion may take place. A final vote will be held after the remaining recommendations are heard.

Recommendation #9

It is recommended that legislation be drafted that shall provide procedures for the determination of competence to stand trial (when competency issues are raised) including the possible dispositional alternatives of juveniles found to be incompetent. Such legislation should be informed by the work and recommendations of the Juvenile ICST Program (FSSA/DMHA), the "Children, Mental Health and the Law" Summit of the Indiana State Bar Association and models that have been successfully implemented in other states (e.g. Virginia, California, and Texas.)

Recommended Implementation:

The main issue is the need to have further thoughtful study and substantial planning to implement both the incompetency guidelines and the subsequent system-delivery model to meet the treatment needs identified through the incompetency process, particularly for those juveniles found to be unrestorable. The ISBA's "Summit on Children, Mental Health and the Law" was recently completed and the results of the incompetency to stand trial tract will be released with the full Summit report. These results should inform the continued work of the Juvenile ICST Program at DMHA and this work should be coordinated with the Juvenile Justice Improvement Committee of Juvenile Court Judges administered by the Indiana Judicial Center to ensure that the guidelines, eventual legislation, and a service delivery system amenable to both the judicial and mental health systems can be developed. It is recommended that the collective work of these groups be completed by January 1, 2005 so that draft guidelines can be incorporated into the

Judicial Benchbook in early Spring 2005 leading to the development and introduction of legislation to formally enact the guidelines by July 1, 2006.

Chair opened floor for questions and comments.

No questions or comments expressed by Commission members.

Consensus for approval of Recommendation #9 was reached by Commission members. A final vote will be held after the remaining recommendations are heard.

Recommendation #10

It recommended that Indiana Code I.C. 35-50-2-2.1 (Juvenile Record Suspension Statute) be repealed.

Recommended Implementation:

It is proposed that this recommendation be implemented as a change to the Indiana Code to go into effect July 1, 2005.

Chair opens floor for discussion.

Susan Carpenter explains that this makes the record suspension a court decision.

Larry Landis states this may eliminate a possible “Blakely issue.”

Sen. Long states that he is not ready to support this recommendation without further exploration. He wants to see what the potential implications of this proposal may be. What crimes could be considered?

Larry Landis supports this recommendation.

Recommendation #10 will be tabled until further discussion may take place. A final vote will be held after the remaining recommendations are heard.

Recommendation #11

Indiana code should be reviewed and, if necessary, revised to ensure that it is not in violation with the Juvenile Justice and Delinquency Prevention Act of 2002.

Recommended Implementation:

It is proposed that SB0354, with the amendments recommended within the Subcommittee recommendation justification, be reintroduced in the 2005 Legislative Session to become effective July 1, 2005.

Chair opens floor for discussion.

Nikki Kincaid, speaking on behalf of Judge Payne, asks that the Commission consider the costs associated with complying with the JJDP Act.

Susan Carpenter states that Indiana Law is very close to matching the Federal Act and does not believe this would be of significant cost to the state for State Law to mirror the Federal Act.

Senator Long asks how much money Indiana would lose without complying with the JJDP Act.

Nikki Kincaid states approximately \$1.4 million per year in federal funds, but also states that it is difficult at this point to fully ascertain how much in local funding leveraged through these federal dollars would be lost as well.

Recommendation #11 will be tabled until further discussion may take place. A final vote will be held after the remaining recommendations are heard.

Recommendation #12

It is recommended that Indiana develop objective criteria to aid in the determination of whether to detain juveniles in secure detention. It is also recommended no changes be made to I.C. 31-37-6-9 regarding a juvenile's right to bail.

Recommended Implementation:

A workgroup of key juvenile justice stakeholders (e.g. judges, prosecutors, public defenders, probation officers, detention directors, etc.) led by the Indiana Judicial Center, under the guidance of the Supreme Court, should be appointed to begin the development of an objective detention decision-making instrument. This process could also be informed by results of the State's participation in the Annie E. Casey Detention Alternatives Project and it is recommended that the State seriously consider participation in this project. It is recommended that the Detention Criteria Workgroup be appointed and begin work by January 1, 2005 and that the launch of a detention criteria instrument be ready for piloting by January 1, 2006.

Chair opens floor for discussion.

Larry Landis states he would prefer that the language regarding no changes be made regarding a juvenile's right to bail be stricken from the recommendation.

Consensus for approval of Recommendation #12 was reached by Commission members. A final vote will be held after the remaining recommendations are heard.

Recommendation #13

It is recommended that there be no change in the current statutory requirements for a change of judge for delinquency cases (quasi-criminal = "for cause") and CHINS, paternity, & TPR (civil = no cause).

Recommended Implementation:

NA

Chair opens floor for discussion.

Nikki Kincaid, speaking on behalf of Judge Payne states that this is just flat wrong. Judge Payne states that Indiana is one of only seven states with this law in effect.

Judge Taliaferro believes that people should have a right to request a change of judge in any situation. Particularly those involving issues such as termination of parental rights, paternity and custody cases.

Bob Marra suggests that instead of “no change” the recommendation should state that we wish to “maintain” the ability to request a change of judge.

Consensus for approval of Recommendation #13 was reached by Commission members. A final vote will be held after the remaining recommendations are heard

Recommendation #14

It is recommended that a new statute be added to the Indiana Code (31-34 and 31-37) that would ensure that dispositional hearings in both CHINS and delinquency cases take place no later than 30 days after the adjudication, unless waived by counsel or family. It is further recommended that a similar provision be added to the juvenile code that would establish the same time limit for modification of dispositions for both CHINS and delinquency proceedings.

It is recommended that a new statute be added to the Indiana Code (31-34 and 31-37) that would ensure that the initial hearing take place not later than 10 days from the time the child is taken into custody and no later than 30 days from the filing of the petition if the child is not taken into custody.

It is recommended that a new statute be added to the Indiana Code (31-34) to mirror the current delinquency code (31-37-11-2) which requires that if a child is in custody and a petition alleging delinquency has been filed, a fact-finding hearing must occur no later than 20 days after the petition is filed excluding Saturdays, Sundays, and legal holidays and that if not in custody the fact-finding hearing must occur no later than 60 days after the petition is filed, excluding Saturdays, Sundays, and legal holidays. It is further recommended that a similar provision be adopted to mandate the same time limits for modification proceedings as well for both CHINS and delinquency.

Recommended Implementation:

It is recommended that a comprehensive survey of the key stakeholders to be affected by the changes (e.g. courts, probation, local OFC offices) and an analysis of current budgetary and caseload/workforce to determine: 1) How many jurisdictions are already staying within the prescribed time limits on an informal basis, thus indicating negligible fiscal impact; and 2) How many jurisdictions are not meeting these time limits, why and what changes would need to be made to meet these time limits, be conducted collaboratively by the Indiana Judicial Center and FSSA/DFC. The results of this survey and analysis will help to inform the decisionmaking of legislators across the State. It is

recommended that this research be completed by late Summer 2005 and that the legislative changes recommended above be introduced as legislation to become effective July 1, 2006.

Chair opens floor for discussion.

Nikki Kincaid stated that the staff and the subcommittee worked with the Judicial Center regarding this recommendation and received opinions from judges with approximately 10-15 judges providing support for this recommendation.

Diane WeissBradley asks if we can be sure that this can realistically be accomplished.

Nikki Kincaid refers to the implementation plan for this recommendation and states that this would require extensive surveying and research to be completed by the late summer of 2005. Any legislative changes recommended would be introduced as legislation to become effective in 2006.

Consensus for approval of Recommendation #14 with the caveat of surveying all stakeholders for their input was reached by Commission members. A final vote will be held after the remaining recommendations are heard.

Recommendation #15

It is recommended that the laws regarding determinate sentencing be eliminated from the Indiana Juvenile Code.

Recommended Implementation:

It is recommended that legislation be introduced to eliminate determinate sentencing to become effective July 1, 2005.

Chair opens floor for discussion.

No questions or comments.

Consensus for approval of Recommendation #15 was reached by Commission members. A final vote will be held after the remaining recommendations are heard.

Recommendation #16

It is recommended that Indiana Code be amended so that the court may not order consecutive periods of confinement in a juvenile detention facility during a single disposition or for related offenses.

Recommended Implementation:

It is recommended that legislation be introduced to prohibit consecutive periods of confinement in a juvenile detention facility to become effective July 1, 2005.

Chair opens floor for discussion.

Nikki Kincaid clarifies that currently, a judge may sentence a juvenile age 16 or under to consecutive 90 day periods of confinement for each offense and juveniles age 17-18 for consecutive 120 day periods of confinement.

Susan Carpenter states that this recommendation seems to clarify what the original intent of the legislature was when it enacted the 90 and 120 day confinement limitations.

Consensus for approval of Recommendation #16 was reached by Commission members. A final vote will be held after the remaining recommendations are heard.

Recommendation #17

It is recommended that H.B. 1228 be passed in its entirety. It is further recommended that schools use a graduated sanctions disciplinary program that allows administrators to discipline students on a case-by-case basis.

It is also recommended that IC 21-3-6-1.1 be amended to include an additional ADM (average daily membership) Count to be conducted by Indiana school corporations on February 1st of each year.

Recommended Implementation:

It is recommended that both HB 1228 and the changes to IC 21-3-6-1.1 be introduced this legislative session and to become effective July 1, 2005.

Chair opens floor for discussion.

Bob Marra states that an April ADM count will be mandatory beginning in 2005. This count will not be tied to funding. However, it is the intent of the legislature to tie the second ADM count in April of each year after 2005 to funding similar to the count held during the first semester each school year.

Bob Marra also asks for clarification regarding the graduated sanctions language. Is this intended to keep kids from being expelled from school inappropriately?

Nikki Kincaid responds affirmatively.

Consensus for approval of Recommendation #17 was reached by Commission members. A final vote will be held after the remaining recommendations are heard.

Recommendation #18

It is recommended that new statutory language be added to both the CHINS and delinquency statutes which states that: "The court having juvenile court jurisdiction may order parental participation if it is found with clear and convincing evidence that the health, safety, and well-being of the child(ren) in the home requires an order of parental

participation pre-adjudicatory. If a child is out of the home (in custody) the court having juvenile court jurisdiction may order pre-adjudicatory parental participation if there is found to be clear and convincing evidence that such parental participation is necessary to facilitate the safe reunification of the child(ren) with the family/guardian.

It is further recommended that additional language be added that would ensure that any violation of a pre-adjudicatory order of parental participation would not be admissible in subsequent criminal or civil proceedings.

Recommended Implementation:

It is recommended that legislation be introduced this Legislative Session to allow for orders of parental participation pre-adjudicatory to become effective July 1, 2005.

Chair opens floor for discussion.

Judge Taliaferro states that she has been requesting this for some time and feels as though this is a very sound recommendation.

Consensus for approval of Recommendation #18 was reached by Commission members. A final vote will be held after the remaining recommendations are heard.

Integrative Funding Subcommittee

Format of the Proposal:

The format of the Integrative Funding Subcommittee is based on three phases for the implementation of a new strategy and process for funding children's services. These phases are:

- 1) *An Information, Policy Development and Planning Phase* during which an understanding of the current status of spending will be developed as well as the establishment of a baseline upon which to measure progress. During this phase, State leaders will develop statewide policies and priorities to achieve well being outcomes for Hoosier children;
- 2) *A Public Policy and Fiscal Incentive Development Phase* during which executive and legislative leaders should determine which fiscal incentives should be developed to support the public policies identified in Phase One that focus on preventive services and well being outcomes for children. These incentives should provide the basis for subsequent re-alignment of existing funding; and,
- 3) *A Funding Realignment Phase* in which information obtained from the two prior phases should be used to determine whether even more dramatic and

systemic changes might be warranted for statewide funding of children's services.

It is anticipated that these three phases establish a long-range plan that could easily involve a five to seven-year period of time.

Recommendation #19:

It is recommended that the State begin implementation of Phase One of the Strategy & Process for Funding Children's Services.

Phase One: Information, Policy Development and Planning Phase

The financial management of services for children should be served well, if more basic expenditure and utilization data collection, integrated policy development and more comprehensive cross-system planning of all services for children could be implemented. A means to accomplish this should be an on going aggregated reporting of all expenditures and service utilization presented by funding source and by county. While the state biennial budget process serves as the mechanism to request State General Fund dollars, the initiation for the budget process for local funds should remain with the county early intervention plan. Obviously, there must be a mechanism at the State level to share financial information between the two budget processes so the budget processes can complement each other and focus on a consistent statewide policy and priorities for children.

The early intervention plan process should begin with a clear policy statement from state policymakers as to the statewide policy and priorities for Hoosier children. This statement should be complemented by an alignment of core values that support the policy, as well as the establishment of measurable objectives on a county-by-county basis that will be used to determine progress toward the policy and priorities. The policy should be based on a clear identification of consistent and statewide well being outcomes for children as well as a statement about the importance of prevention services and an identification of a continuum of services that best address these outcomes.

Once trend information is obtained, the policy also should form the basis for Phase Two, in which there will be a re-shaping and re-alignment of current funding with goals that support prevention services, or when necessary, early intervention services if prevention services do not achieve well being outcomes for children. The statewide policy should emphasize that out of home or residential placement is to be used only when it is the only alternative to meet the best interests, safety, health and well being of a child. This policy direction should be forwarded to each county in September of each year as the overall instruction upon which to develop the county early intervention plan.

The communication about the early intervention plan also should include information from the State policy makers about:

- An explanation of the statutory requirement to develop the plan;

- The specific funding sources and services that are to be included in the plan development;
- The use of the plan as the basis for development of the county family and children's fund budget;
- A clear identification of the target population of children to be served by the early intervention plan;
- A clear policy statement from the appropriate state agency heads that information sharing among local agencies involved in a child's service coordination plan will be implemented in a manner as to safeguard identifying and confidential information;
- The identification of measurable objectives that will monitor progress made on the plan;
- The plan review process;
- The manner in which the early intervention plan process will relate to the state budget process;
- The offer of technical assistance from the State;
- The requirement for the establishment of a continuum of services that each county is expected to have available to children;
- The reference to the minimum standards that must be attained for each component of the continuum of services;
- An assessment of the community capacity to provide the needed services; and,
- The availability and integration of a statewide financial information system that will monitor, by the use of a unique "child identifier," cross-agency service expenditures and service utilization, from each of the major funds that pay for services for children and their families.

For the purpose of this process, a Children's Services Policy Forum should be established that includes the following representatives:

- Governor;
- Superintendent of Public Instruction;
- Speaker of the House;
- President Pro Tempore; and,
- Chief Justice of the Indiana Supreme Court

The Children's Services Policy Forum should be empowered to establish rules for conducting its business and establish whatever mechanisms needed to advance the interest of child well being and interests.

In addition to the current membership structure of the early intervention planning team, the following local representatives should be added:

- County Health Department representative (which may include county extension staff);

- Community Action Agency;
- Detention Center or Juvenile Justice Center (when applicable);
- Township trustee; and,
- CASA, GAL or other child advocacy representative.

The content of the county early intervention plan is to address the following issues:

- The manner in which funds will be used to promote improved services to children and families while decreasing administrative costs;
- An overall commitment of the early intervention team to meet the state policy objectives presented in the policy letter;
- How a common screening and an assessment process shall be implemented and maintained to improve the process to provide prevention and early intervention services to children and families;
- The manner in which child and family information will be shared and safeguarded;
- The manner in which measurable objectives will be gathered;
- That the early intervention team shall serve as the authoritative local forum for children's services development and dispute resolution in the county;
- The identification of state agency state plans, administrative rules, state statutes or agency policies that should be evaluated to promote better coordination and cooperation of services and to minimize overly-restrictive practices;
- How new funding opportunities will be sought to support and compliment the early intervention plan and the collaborative process for local review and approval of the new funding request; and,
- The manner in which public education and information will be managed to bring about a public will and support for the statewide policies and priorities for children.

The early intervention plan also should include (beyond the current statutory requirements) inclusion of the funds from the following sources to promote efficiency and effectiveness:

- Kids First grants;
- County General Funds that pay for secure detention and/or alternatives to detention, and commitment costs to the Department of Correction for children;
- Community Action funds targeting children;
- Mental health funds;
- Township trustee funds focusing on child well being;
- Healthy Families;
- JABG funds and other Criminal Justice Institute funding;
- Parental reimbursements;

- The Children’s Psychiatric Residential Treatment Fund; and,
- Child Welfare Services account funds.

The submission dates for the Early Intervention Plan should be moved forward to thirty days (30) days earlier than what is presented in the statutes in order to accomplish this new process.

The incentive to develop a meaningful early intervention plan should be based upon a clear understanding that any expansion of the base to any current state funding or any new funding opportunities for children’s services from any state agency will be based upon compliance with and adherence to the early intervention planning process and plan.

During Phase One, the State would be responsible to develop, or if possible, use existing information systems to track expenditures and service utilization on a child and/or family basis. The development of a “child identifier” common to all systems would provide the type of expenditure information that could assist in inter-agency policy development, planning and appropriate sharing of service costs by child. The information would be used to identify expenditure trends, fund utilization, service utilization and potential areas of efficiency (e.g., use of funds for leveraging of federal monies, amount of federal reimbursements and decrease in service delivery costs).

After refining service definitions and developing a common language for all information systems that serve children, a decision should be made about the development of a central reimbursement office. That activity would establish a payer hierarchy that identifies the most favorable fund in which to pay specific services in order to maximize federal reimbursements.

Chair states that while this is a very large recommendation, the phased in approach makes it clear and manageable. At a very high level, this addresses the frustration that has been expressed about how we can best leverage the \$1.5 billion currently being spent on children and families. These funds should be incentive laden, not punishment oriented.

The Chair requests that the Commission members vote on the big picture plan with the idea that the details will be worked through by the Children’s Services Policy Forum team.

Bob Marra states that this recommendation is needed and we should do this.

Consensus for approval of Recommendation #19 was reached by Commission members.

***RECOMMENDATIONS APPROVED BY CONSENSUS INCLUDE:
Numbers 1, 2, 3, 4, 5, 9, 12, 13, 14, 15, 16, 17, 18, and 19.***

***RECOMMENDATIONS TO BE FURTHER REVIEWED INCLUDE:
Numbers 6, 7, 8, 10, and 11.***

Chair goes over next steps. The staff will make any changes to the recommendations requested by the Commission members and put the recommendations together in one comprehensive document.

The Chair encourages commission members to look at the extended version of the recommendations provided via e-mail by Nikki Kincaid for further clarification. All tabled recommendations will be voted on at the November meeting.

A final document with rationale will be distributed as soon as possible following the November 10, 2004 meeting of the Governor's Juvenile Law Commission.

Next Meeting:

Date: Wednesday, November 10, 2004

Time: 10:00 a.m. — 12:00 p.m. (Indianapolis Time)

Location: Indiana Government Center South,
Training Room #4

Issues: Discussion of Tabled Recommendations & Final Vote for
All Recommendations

Meeting adjourned by Chair at 12:25 pm.